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E.O. 11652: XGDS1  
TAGS: PB OR, PF OR, CO, VE  
SUBJECT: COLOMBIAN-VENEZUELAN OFFSHORE BOUNDARY  
DISPUTE: COLOMBIA DECIDES TO INVOKE 1939 TREATY

USCINCSO FOR POLAD

REFERENCE: BOGOTA 5266

1. SOURCES IN THE FOREIGN OFFICE TOLD THE POLITICAL COUNSELOR THAT ON JUNE 26 THE FOREIGN AFFAIRS ADVISORY COMMITTEE MET WITH THE FOREIGN MINISTER AND OTHER OFFICIALS OF THE MINISTRY TO DISCUSS COLOMBIA'S RESPONSE TO VENEZUELA'S LATEST NOTE SUGGESTING A CONTINUATION OF DIRECT NEGOTIATIONS IN THE OFFSHORE BOUNDARY DISPUTE BETWEEN THE TWO NATIONS. THE COMMITTEE AGREED IN PRINCIPLE THAT COLOMBIA CAN NO LONGER DELAY INVOKING THE DECEMBER 17, 1939 TREATY BETWEEN VENEZUELA AND COLOMBIA ON NON-AGGRESSION, COMILITATION, ARBITRATION AND JUDICIAL SETTLEMENT. UNLESS OVERRULED BY THE PRESIDENT, THE FOREIGN MINISTER WILL SEND A NOTE TO THE VENEZUELAN IN WHICH HE WILL REJECT A CONTINUATION OF DIRECT NEGOTIATIONS AND WILL INVOKE THE 1939 TREATY.

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2. EVEN IF THE 1939 TREATY IS INVOKED, THERE WILL BE NO IMMEDIATE PRESSURE ON VENEZUELA TO TAKE THE ISSUE TO ARBITRATION OR WORLD COURT. THE MECHANISMS IN THE TREATY ARE QUITE COMPLEX AND LENGTHY. THE TREATY CALLS FOR A PERMANENT CONCILIATION COMMISSION OF FIVE MEMBERS EACH PARTY CHOOSES TWO MEMBERS, ONLY ONE OF WHOM MAY BE A NATIONAL OF THE STATE BY WHOM CHOSEN. THE FIFTH MEMBER, THE PRESIDENT, IS CHOSEN BY THE FIRST FOUR AND MAY NOT BE A NATIONAL OF EITHER STATE. THE COMMISSION HAS ONE YEAR IN WHICH TO SUBMIT A PROPOSAL, AFTER WHICH THE PARTIES SHALL HAVE SIX MONTHS TO NEGOTIATE A SETTLEMENT ON THE BASIS OF THE COMMISSION'S PROPOSED SOLUTION. (THE ONE-YEAR PERIOD MAY BE EXTENDED BY AGREEMENT.) IF NO AGREEMENT IS REACHED AT THE END OF SIX MONTHS, THE DISPUTE IS TO BE SUBMITTED TO JUDICIAL OR ARBITRAL DECISION.

3. UNDER THE TREATY EITHER PARTY MAY INVOKE A CLAUSE THAT SAYS QUESTIONS OF "VITAL INTEREST, INDEPENDENCE AND TERRITORIAL INTEGRITY" DO NOT FALL WITHIN THE SCOPE OF THE TREATY. IF VENEZUELA SHOULD INVOKE THE CLAUSE, COLOMBIA WILL ARGUE THAT ANOTHER ARTICLE IN THE TREATY (ARTICLE 24) STIPULATES THAT DIFFERENCES OF INTERPRETATION OR EXECUTION OF THE TREATY SHALL BE SUBMITTED TO THE WORLD COURT OR ARBITRAL TRIBUNAL BY MEANS OF SIMPLE APPLICATION OF OTHER PARTY. COLOMBIA WILL ALSO ARGUE THAT ARTICLE 15 SAYS THAT "ANY QUESTION OF INTERNATIONAL LAW" NOT SETTLED BY CONCILIATION SHALL BE SUBMITTED TO JUDICIAL DECISION BY THE WORLD COURT OR AN ARBITRAL TRIBUNAL.

4. THE TECHNICIANS AND CAREER PEOPLE IN THE COLOMBIAN GOVERNMENT HAVE LONG FELT THAT INVOCATION OF THE 1939 TREATY IS THE ONLY ACCEPTABLE ROUTE. THE POLITICAL LEVELS HESITATED TO INVOKE THE TREATY BECAUSE THEY FELT THAT BY DOING SO THEY WOULD OFFEND VENEZUELA. THE TECHNICIANS SAY NONSENSE, THAT VENEZUELA HAS DONE A SLICK JOB OF TELEGRAPHING TO THE COLOMBIANS THEY WOULD BE OFFENDED IN ORDER TO FORESTALL COLOMBIA'S EXERCISING HER RIGHTS. NOW, THE MEMBERS OF THE FOREIGN AFFAIRS

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ADVISORY COMMITTEE HAVE AGREED THAT THE ISSUE CAN NO LONGER BE POSTPONED. THEY ADDUCE TWO BASIC REASONS FOR INVOKING THE TREATY AT THIS TIME: 1) COLOMBIA WOULD BE DOING A DISSERVICE TO ITSELF AND TO VENEZUELA IF FOREIGN MINISTER VAZQUEZ AND PRESIDENT PASTRANA VISITED VENEZUELA WITHOUT FIRST MAKING CLEAR COLOMBIA'S POSITION. IF THEY WENT THERE BEFORE REPLYING TO THE VENEZUELAN PROPOSAL IT WOULD BE EVEN MORE DIFFICULT AFTER THE WINING AND DINING AND EXPRESSIONS OF FRIENDSHIP TO INVOKE THE TREATY. 2) COLOMBIA'S PERCEPTION OF THE "ARMS RACE" IS THAT VENEZUELA IS STEADILY INCREASING ITS INVENTORY OF ARMAMENTS AND MANY COLOMBIANS ARE ASKING THEMSELVES AND THEIR GOVERNMENT WHY IT IS THAT COLOMBIA SITS BACK AND DOES NOTHING TO PROTECT ITS RIGHTS. OFFICIALS IN THE FOREIGN MINISTRY ARE CONVINCED THAT THE GOVERNMENT MUST EXERCISE COLOMBIA'S RIGHTS OR SUFFER SERIOUS PUBLIC RELATIONS REVERSES AND POSSIBLE LOSS OF ABILITY TO EXERCISE LEADERSHIP OVER THE COLOMBIAN MILITARY ESTABLISHMENT.

5. INTERNAL VENEZUELAN POLITICAL CONSIDERATIONS ALSO ENTER INTO COLOMBIA'S CALCULATIONS. AS THE COLOMBIANS SEE IT, VENEZUELA OBTAINED A VERY FAVORABLE TREATY FROM GREAT BRITAIN WITH RESPECT TO GUYANA IN 1966. THE TREATY CALLED FOR A FOUR-YEAR PERIOD OF NEGOTIATIONS TO DEFINE THE PERMANENT BOUNDARY AND IF AFTER FOUR YEARS THE TWO PARTIES COULD NOT AGREE THE ISSUE WAS TO BE TAKEN TO THE WORLD COURT. IN 1970, THE COPIE PARTY WAS IN POWER AND NEGOTIATING WITH THE COLOMBIANS ON THE OFFSHORE BOUNDARY DISPUTE. IN ORDER NOT TO GIVE THE COLOMBIANS A PRECEDENT, THE VENEZUELAN SIGNED AN AGREEMENT WITH THE GUYANESE POSTPONING THE SETTLEMENT OF THEIR PORBLEM FOR TWELVE YEARS. COLOMBIANS CLAIM THIS ACTION CAUSED A TREMENDOUS UPRDAR IN THE VENEZUELAN CONGRESS WHERE MEMBERS OF ACCION DEMOCRATICA INSISTED THAT THE GUYANESE QUESTION, WHICH THEY HAD NEGOTIATED WHEN THEY WERE IN POWER, BE SETTLED. THE COLOMBIANS BELIEVE THAT IF ACCION DEMOCRATICA RETURNS TO POWER IT WILL MOVE TO RESOLVE THE

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GUYANESE QUESTION AND THAT THAT WILL HELP COLOMBIA'S CASE,  
ESPECIALLY IF SHE HAS PREVIOUSLY INVOKED THE 1939 TREATY.  
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